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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 67th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 10 March 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.35 a.m.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 21) (continued) (E/CN.4/1994/81; E/CN.4/1994/L.89)

1. Mr. HELGESEN (Chairman-Rapporteur of the Working Group to draft the declaration), introducing the report of the Working Group on its ninth session (E/CN.4/1994/81), said that, if the protection of human rights was a sensitive issue, the protection of the human rights of its defenders was even more so, and that was the main reason why the Working Group had concluded its ninth session in January without producing a final text. The most controversial issues would be even more carefully scrutinized as the Working Group approached its goal.

2. He reminded those who were impatiently awaiting the final text that only 5 to 10 working days were allocated to the Working Group per year. The members of the Working Group had been especially eager to finish their work at its ninth session, article 94 of the Vienna Declaration and Programme of Action having recommended a speedy compilation of the draft declaration followed by its prompt adoption.

3. The Working Party had devoted its ninth session to the second reading of the operative part of the text, and considerable ground had been covered. It had been decided to change the draft declaration's structure by deleting the chapter headings. In so doing, the Working Group had wished to make it clear that every article must be interpreted in the context of the other articles and had also sought to avoid repetitive clauses on limitations and restrictions.

4. The Working Group recognized that complex questions were still pending in the operative part and that the preamble had to be finalized. The members of the Working Group hoped that the deliberations on the draft declaration could be completed at its tenth session, which he urged all member States of the Commission, observers and non-governmental organizations to attend.

5. He drew attention to a technical error in the report. The title of chapter II (page 5 of the English version) should read "Consideration of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms".

6. Ms. GAER (United States of America) said that few persons contributed more to the advancement of human rights than those who risked their lives and freedom so that people might enjoy the human rights due to each of them. The international community knew of the work of people such as Sakharov, Havel, Rigoberta Menchu, Daw Aung San Suu Kyi and Wei Jingsheng, but the efforts of thousands of less famous human rights defenders remained unknown. Repressive regimes had ways of preventing human rights defenders from speaking the truth: harassment, blackmail, detention, torture and executions. The Commission must take the opportunity to honour their courage and commitment.

7. The Working Group established to draft a declaration on human rights defenders had been making good progress and was perhaps nearing the completion of its task. In the view of her delegation, the declaration must strengthen and assist human rights defenders; it must affirm the rights of defenders and ensure that States allowed everyone, individually and in association with others, to defend human rights; it must enhance access to information relating to human rights concerns and situations; and it must facilitate peaceful advocacy to improve human rights. A declaration that would put a limit on what human rights defenders were allowed to do, or permitted them to act only under government direction, as some nations appeared to wish, was of no value.

8. Her delegation urged all concerned Governments and non-governmental organizations to play an active part in the concluding sessions of the Working Group, so that its work could be brought to a successful and speedy conclusion.

9. Mr. GARRETON (Chile) said that, although the Working Group had held nine sessions to date, it had made no significant progress, in spite of the outstanding efforts of its Chairman-Rapporteur and the contributions of many delegations and non-governmental organizations.

10. The draft declaration must guarantee defenders of human rights the right to organize, with the structures that the organizers deemed appropriate, and the right to be recognized as legal associations, or at any rate the right not to be punished where such organizations were not recognized; the right to express their opinions and to disseminate information; the right to seek and receive national and international support for their work, whether financial, political or moral; the right to demonstrate solidarity with the victims and to assist them in securing recognition of their rights; the right to be active during emergency situations, when their work was particularly important; the right to criticize the official culture; and the right to investigate and denounce human rights violations committed by States.

11. The purpose of the declaration was to protect the rights of human rights defenders; unfortunately, it was degenerating into a code of conduct, based more on suspicion than on freedom, on punishment rather than protection. It was to be hoped that, at its future sessions, the Working Group would show more understanding of persons demanding a right that did not appear in any declaration: the right to be believed. Most regrettably, it appeared that, in some States, human rights defenders were regarded as dangerous subversives and traitors to their country, to be dealt with accordingly.

12. Mr. HJELDE (Observer for Norway), speaking on behalf of the Nordic countries and also Australia, said it was deeply disturbing that many of the individuals and groups working to promote and protect human rights were exposed to harassment, mistreatment and threats and had sometimes even sacrificed their lives.

13. The Working Group had made considerable progress at its ninth session. Unfortunately, the text from the first reading on the right to receive funding had been questioned by some States. National and international cooperation was actively encouraged in the Vienna Declaration, and the possibility of freely sharing information and resources must be accepted as an intrinsic

part thereof. It was to be hoped that the Governments represented in the Working Group would eventually agree to a text on funding that came close to the negotiated and carefully balanced language from the first reading.

14. The delegations he represented were also concerned that, in the opinion of some members of the Working Group, the State was entitled to impose unreasonable restrictions on human rights defenders and groups. The responsibilities of the individual had already been comprehensively covered in the text from the first reading, some would say excessively so; any additional language focusing mainly on restrictions on the individual should be reconsidered and withdrawn.

15. The Nordic countries attached the greatest importance to a successful outcome of the Working Group's deliberations. It was to be hoped that, in keeping with the spirit of the Vienna Declaration, the Working Group would be able successfully to complete its task at its tenth session.

16. Ms. BORNET (International Association of Educators for World Peace) said that human rights had to be seen in the context of the physical and social environment, the reciprocal relationships between the members of society, and the rights to which such members were entitled and the responsibilities incumbent on them. Respect for and protection of human rights was an ongoing task, which could be accomplished only by acknowledging that rights were always accompanied by responsibilities.

17. Thus, for example, the United Nations Conference on Environment and Development (UNCED) had highlighted the dangers of current trends in development and the growing gap between the developing and the industrialized countries, the latter of which were consuming a large part of the world's natural resources and creating most of its pollution. The globalization of problems related to development had repercussions on the world economy, the environment, and the domains of security and ethics. Both developed and developing countries had to take responsibility for addressing those issues.

18. Mr. PANG Sen (China), speaking in exercise of the right of reply, said that, rather surprisingly, the representative of the United States of America had mentioned the names of some individuals she considered to be defenders of human rights throughout the world. In fact, one of those mentioned, a Chinese citizen, named Wei Jingsheng, had engaged in illegal activities in China.

19. He wondered who had appointed the United States delegation to act as a judge; what right it had to name the citizens of other countries as defenders of human rights and why it had not listed defenders of human rights from the United States.

Draft resolution on the question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1994/L.89)

20. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities.

Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the 1994-1995 biennium.

21. Mr. HJELDE (Observer for Norway), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cameroon, Nigeria, Tunisia and the United States of America and observers for Belgium, Greece, Slovakia and the Ukraine, said that it was based on a resolution that the Commission had adopted by consensus in 1993; the current text also incorporated recommendations made by the World Conference on Human Rights. He hoped that it would be adopted without a vote.

22. Mr. ELKARIB (Sudan) said that operative paragraphs 2 and 3 appeared to be contradictory. In operative paragraph 2, the Working Group was urged to make every effort to submit the draft declaration to the Commission at its fifty-first session, whereas, in operative paragraph 3, the Commission decided to continue at its fifty-first session its work on the elaboration of the draft declaration.

23. Ms. SCHJERVEN (Observer for Norway) said that, under operative paragraph 2, the Working Group was to make recommendations to the Commission with regard to the draft declaration. Under operative paragraph 3, the Commission was to consider the Working Group's recommendations.

24. Mr. CURBELO CASTELLANOS (Cuba), speaking in explanation of vote before the voting, said that his delegation attached great importance to the draft declaration and had played an active part in the consultations on the draft resolution. Since the draft declaration should ideally be a consensus document; it was to be hoped that more delegations would participate in the activities of the open-ended Working Group.

25. E/CN.4/1994/L.89 was adopted.

26. The CHAIRMAN said that the Commission had thus completed item 21 of its agenda.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS;

(e) INTERNATIONAL YEAR OF THE FAMILY

(agenda item 11) (continued) (E/CN.4/1994/L.75)

Draft resolution on the effective functioning of the various mechanisms established for supervision, investigation and monitoring of the implementation of the treaty obligations entered into by States in regard to human rights and of the existing international standards in this regard (E/CN.4/1994/L.75)

The meeting was suspended at 11.20 a.m. and resumed at 1 p.m.

27. Mr. MORA GODOY (Cuba) said that he would read out the changes to be made to draft resolution E/CN.4/1994/L.75. Unfortunately, there had not been enough time to consult all the delegations concerned regarding every one of the changes but he hoped they would prove acceptable.

28. A new third preambular paragraph should be inserted after the second preambular paragraph to read: "Taking into account the necessity, as expressed in the Vienna Declaration and Programme of Action, for a continuing adaptation of the United Nations human rights machinery to the current and future needs in the promotion and protection of human rights and, in particular, through improved coordination, efficiency and effectiveness of the United Nations human rights organs,".

29. The current third preambular paragraph would then become the fourth preambular paragraph. In the first line of that paragraph, the words "for the appropriate bodies" should be inserted following the word "need". In the third line, the word "of" following "investigation and monitoring" should be deleted. In the fourth line, the words "the implementation" should be inserted following the words "in regard to human rights and".

30. As modified, that paragraph emphasized that the appropriate bodies should carry out reviews of the various mechanisms established to monitor the implementation of treaty obligations and international standards.

31. Operative paragraph 1 should read: "Decides that, in the course of the forthcoming rationalization of the Commission's work, the report of the Secretary-General on this question, prepared in accordance with resolution 1993/58 (E/CN.4/1994/42), should be considered without prejudging the approach of the Chairman to the reorganization of work and restructuring of the agenda;". The last phrase took into account the work of the proposed inter-sessional working group designed to study ways of rationalizing the Commission's work.

32. In operative paragraphs 2 and 3, the words "the Commission, working groups or any other means that may be established to consider the rationalization of the work of the Commission" should be replaced by "that, when the rationalization of the work of the Commission is considered". In the fourth line of operative paragraph 2, the words "effectiveness, efficiency and coordination" should be inserted after "improving the functioning". In the

fourth line of operative paragraph 3, the words "their original mandates" should be replaced by the words "the mandates established by the Commission". In the last line of that paragraph, the word "unnecessary" should be inserted between the words "avoiding" and "duplication" and the words "financial and human" should be deleted.

33. The changes he had just read out had been agreed upon in a spirit of compromise and cooperation. If the revised text was not acceptable to the Commission, his delegation was prepared to call for a vote on the draft resolution as it had originally stood.

34. Mr. DAUFRESNE de LA CHEVALERIE (France) said that it was not possible for his delegation to evaluate those revisions without having seen them in writing and in the French language.

35. The CHAIRMAN said that the Commission would resume its consideration of the draft resolution at its next meeting.

The meeting rose at 1.15 p.m.